

REMARKS

In reply to the non-final Office action of November 15, 2010, please enter the amendments set forth above and consider the following remarks. By this response, Applicants amends claims 1, 6-8, 13-17, 19 and 21, and update the cross-reference paragraph with the previously acknowledged continuity information, as-filed. No new matter has been added. Upon entry of this paper, claims 1-21 will remain pending in this application.

In the Office action, the Examiner: (i) made the requirement final; (ii) rejected claims 1-13 and 21 under 35 USC 101; and (iii) rejected claims 1-5, 9-12, 14, 17 and 21 under 35 USC 102(e) as being anticipated by U.S. patent No. 7,609,767 to Srinivasan et al. ("Srinivasan"). With regard to the rejections, Applicants respectfully traverse, submitting that the standing rejections are unsupportable/moot/overcome as against the claims presented for at least the reasons set forth below. Reconsideration is respectfully requested.

Election/Restriction

Applicants respectfully maintain the procedural objection to the requirement, via this request that the Office reconsider its denial of the traversal, to maintain any unresolved issues for potential further review, if warranted.

Claim Rejections under 35 U.S.C. § 101

Claims 1-13 and 21 stand rejected under 35 USC 101, as not falling within one of four statutory categories of inventions.

Applicants respectfully traverse, and thank the Examiner for his helpful indications that amended claims 1-13 and 21 presented herewith recite more acceptable subject matter. As such, as without acquiescence, in the interests, e.g., of advancing prosecution, avoiding additional costs, etc., Applicants have amended the claims to even further clarify the claimed subject matter. For example, relevant independent claims 1, 13 and 21 now recite subject apparatus such as the relevant "decoder". Accordingly, the claims under rejection are believed to even more clearly fall

within the statutory categories of inventions. Therefore, Applicants respectfully submits that any issues under 35 USC 101 are overcome, and the rejections of claims 1-13 and 21 should be withdrawn.

Claim Rejections under 35 U.S.C. § 102(e)

Claims 1-5, 9-12, 14, 17 and 21 stand rejected under 35 USC 102(e), as being anticipated by Srinivasan. Applicants respectfully traverse.

As a threshold matter, Applicants respectfully traverse this rejection, *inter alia*, in that the cited portions of Srinivasan, which is based on provisional patent application No. 60/377,628, do not appear to be entitled to the May 3, 2002 filing date of the provisional application. Instead, the effective date for the cited portions appear to be, at earliest, Srinivasan's U.S. filing date of March 3, 2003. Accordingly, as set forth in more detail below, Srinivasan is not available as prior art against the present application, which has an effective date of the December 19, 2002, filing date of its priority provisional application.¹

Specifically, as set forth in the application papers and Preliminary Amendment as filed, and confirmed by the Office, the instant application is a 371 application claiming with benefit/priority of U.S. provisional application No. 60/435,237, filed December 19, 2002. This December 19, 2002 priority date, to which the claims under rejection are entitled, is earlier than the (at earliest) March 3, 2003 effective date of Srinivasan. Consequently, Srinivasan is not available to artisans at the time Applicants filed the disclosure of the instant invention with the United States Patent and Trademark Office.

Accordingly, because the cited portions are not contained in its provisional, the effective date of Srinivasan, as a reference under 102(e), is later than effective date of the presently-rejected claims. For at least this reason, Srinivasan cannot be used to

¹ Here, for example, it is respectfully noted that the 20-page provisional patent application underlying the instant claims fully supports and even lists the claims/recitations, as compared against Srinivasan's 4-page provisional application, which does not include the drawings and cited portions asserted against these claims.

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support rejection of the claims under 35 U.S.C. § 102(e). Therefore, Applicants respectfully submit that the rejections under 35 U.S.C. § 102(e) be withdrawn, and claims 1-5, 9-12, 14, 17 and 21 allowed.

Moreover, it does not appear that the rejections are otherwise supported by the Srinivasan provisional application, and thus no adequate (prima facie) case of anticipation has been established. As such, if the Office wishes to issue new rejections (keyed to the Srinivasan provisional, or to other art), Applicants respectfully request that any such rejections be presented in a subsequent, non-final Office action.

Closing Remarks

Various amendments of, e.g., clerical nature unrelated to patentability have also been made.

In view of the above, early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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